

## Part 4 Issuance of Bonds

### **63B-1b-401 Pledge of agency bonds to pay revenue bonds -- Contents of financing agreements -- Use of money received by authorizing agencies.**

- (1) Subject to the requirements of this chapter, and with the approval of the relevant authorizing agency, the State Bonding Commission may pledge, assign, or otherwise transfer any agency bonds, any money payable on or with respect to them, any legally available money or other security administered by an authorizing agency, or any combination of bonds, money, or other security to provide for the payment of revenue bonds issued under Section 63B-1b-402 and the payment of any amounts due under agreements and contracts described in Subsection 63B-1b-402(9).
- (2)
  - (a) Before issuing revenue bonds under Section 63B-1b-402, the commission shall enter into a financing agreement with the appropriate authorizing agency or agencies.
  - (b) This agreement shall specify:
    - (i) any agency bonds, money, or other security to be pledged by the commission to provide for the payment of the revenue bonds;
    - (ii) the amount to be paid to the order of the authorizing agency or agencies for the agency bonds, money, or other security; and
    - (iii) other matters that the commission considers necessary or appropriate.
- (3) The amounts received by each authorizing agency from the proceeds of the revenue bonds, together with all amounts paid to the authorizing agencies pursuant to Subsection 63B-1b-402(10), shall be applied by the authorizing agency as authorized by the law creating or authorizing the loan or grant program of the authorizing agency.

Amended by Chapter 251, 2011 General Session

### **63B-1b-402 Commission may authorize revenue bonds -- Contents of bond document -- Special and reserve funds -- Limitation on liability -- Restoration of money in reserve funds -- Payment of bonds and other technical requirements -- Refunding -- Report to Division of Finance.**

- (1)
  - (a) In order to provide authorizing agencies with an alternative method of liquidating agency bonds and with additional funds to further the purposes of the authorizing agencies, the commission may authorize the state to issue revenue bonds subject to the requirements of this chapter.
  - (b) The revenue bonds shall be payable solely from a special fund established by the state treasurer as provided in Subsection (4).
  - (c) Revenue bonds may be sold at public or private sale and may be issued in one or more series.
- (2) Revenue bonds may be authorized, issued, and sold by the commission on behalf of the state at a time or times and in a manner set forth in a bond document that provides for:
  - (a) the terms and conditions of sale, including price, whether at, below or above face value;
  - (b) interest rates, including a variable rate;
  - (c) authorized denomination;
  - (d) maturity dates;

- (e) form;
  - (f) manner of execution;
  - (g) manner of authentication;
  - (h) place and medium of payment;
  - (i) redemption terms;
  - (j) authorized signatures of public officials; and
  - (k) other provisions and details considered necessary or appropriate.
- (3) To the extent set forth in the resolution, the proceeds of revenue bonds may be used for the purposes set forth in Subsection (1) and to:
- (a) provide for any necessary or desirable reserve fund as provided for in Subsection (5); and
  - (b) pay fees, charges, and other amounts related to the issuance and sale of the revenue bonds.
- (4)
- (a) As provided in the bond document, the principal of, premium, if any, and interest on, any issue of revenue bonds is payable solely from and secured by one or more special funds consisting of:
    - (i) the pledge and assignment of any agency bonds, including all amounts payable on or with respect to them, and other money and security, as provided for in an agreement entered into under Subsection 63B-1b-401(2);
    - (ii) amounts on deposit in the reserve fund, if any, established under Subsection (5);
    - (iii) amounts available pursuant to any security device or credit enhancement device that the commission authorizes for the purpose of improving the marketability of the revenue bonds; and
    - (iv) other amounts available and pledged by the commission to secure payment of that issue of revenue bonds.
  - (b) Owners of revenue bonds do not have recourse against the general funds or general credit of the state or its political subdivisions or agencies, but this limitation does not limit or alter the obligations of political subdivisions on agency bonds in any manner.
  - (c) Revenue bonds do not constitute nor give rise to a general obligation or liability of, or constitute a charge or lien against, the general credit or taxing power of the state or its political subdivisions or agencies, including any authorizing agency.
  - (d) Revenue bonds shall contain on their face a statement that:
    - (i) the revenue bonds are payable solely from the sources set forth in this Subsection (4) and specified in the bond document with respect to the revenue bonds;
    - (ii) neither the state nor any political subdivision of the state is obligated to pay the revenue bonds; and
    - (iii) neither the faith and credit nor the taxing power of the state or any of its political subdivisions is pledged to the payment of principal or redemption price of, or premium, if any, or interest on the revenue bonds.
  - (e) Revenue bonds do not constitute debt of the state within the meaning of Utah Constitution Article XIII, Sec. 5 (3) or Article XIV, Sec. 1.
- (5)
- (a) The commission may establish a reserve fund with respect to any issue of revenue bonds.
  - (b) If a reserve fund is established, the bond document relating to that issue of revenue bonds shall specify:
    - (i) the minimum amount that is required to be on deposit in the reserve fund;
    - (ii) the amount of sale proceeds from the sale of that issue of revenue bonds that shall be deposited in the reserve fund; and
    - (iii) the manner in which any deficiency in the reserve fund shall be replenished.

- (c)
  - (i) On or before the first day of December of each year, the state treasurer shall certify to the governor and the director of the Division of Finance the amount, if any, that may be required to restore all reserve funds established to the minimum amount specified by the state treasurer with respect to each reserve fund.
  - (ii) The governor may request an appropriation from the Legislature equal to the certified amount in order to restore each reserve fund to the specified minimum amount.
- (6)
  - (a)
    - (i) The commission may provide in the bond document that any signature of a public official authorized to sign revenue bonds may be by the facsimile signature of that official imprinted, engraved, stamped, or otherwise placed on the revenue bonds.
    - (ii) If all signatures of public officials on the revenue bonds are facsimile signatures, the bond document shall provide for a manual authenticating signature on the revenue bonds by or on behalf of a designated authenticating agent.
    - (iii) If an official ceases to hold office before delivery of the revenue bonds signed by that official, the signature or facsimile signature of the official is valid and sufficient for all purposes.
  - (b) A facsimile of the seal of the state may be imprinted, engraved, stamped, or otherwise placed on the revenue bonds.
- (7)
  - (a) The commission may provide in the bond document for the replacement of lost, destroyed, stolen, or mutilated revenue bonds or for the exchange of revenue bonds after issuance for revenue bonds of smaller or larger denominations.
  - (b) Revenue bonds in changed denominations shall:
    - (i) be exchanged for the original revenue bonds in the aggregate principal amounts and in a manner that prevents the duplication of interest; and
    - (ii) bear interest at the same rate, be of the same series, mature on the same date, and be as nearly as practicable in the same form as the original revenue bonds.
- (8)
  - (a)
    - (i) Revenue bonds may be registered as to both principal and interest or may be in a book entry form under which the right to principal and interest may be transferred only through a book entry.
    - (ii) The commission may provide for the services and payment for the services of one or more financial institutions, other entities or persons, or nominees, within or outside the state, for:
      - (A) authentication;
      - (B) registration;
      - (C) transfer, including record, bookkeeping, or book entry functions;
      - (D) exchange; and
      - (E) payment.
  - (b) The records of ownership, registration, transfer, and exchange of the revenue bonds, and of persons to whom payment with respect to them is made, are classified as private or protected as defined in Title 63G, Chapter 2, Government Records Access and Management Act.
  - (c) The revenue bonds and any evidences of participation interests in the revenue bonds may be issued, executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature relating to the registration of obligations enacted to meet the requirements

of Section 149 (a), Internal Revenue Code of 1986, or any comparable predecessor or successor provision, and applicable regulations.

- (9)
- (a) The commission may authorize the execution and delivery of whatever agreements and contracts that the commission considers necessary and appropriate in connection with the issuance of revenue bonds.
  - (b) These agreements and contracts may include agreements and contracts with financial and other institutions for financial advisory services, trustee services, insurance, letters of credit, reimbursement agreements, tender agreements, put agreements, repurchase agreements, and indexing and tender agent agreements to:
    - (i) facilitate the sale of the revenue bonds; or
    - (ii) secure or provide liquidity to support any agreement, obligation, or contract entered into by an authorized officer on behalf of the state in connection with:
      - (A) the issuance and sale of the revenue bonds;
      - (B) any repurchase, remarketing, or other pledge of the revenue bonds; and
      - (C) any insurance, repurchase, remarketing, tender, put, letter of credit, or agreement, obligation, or contract entered into in connection with them, including payment of fees, charges, or other amounts coming due under agreements entered into with financial or other institutions on behalf of the state.
- (10) When all revenue bonds of an issue have been paid, or provision for their payment has been made, the following shall be transferred to the appropriate authorizing agency or agencies, in the amounts and in the manner that the commission considers fair and equitable, and to the extent not required to secure payment of the revenue bonds and related fees, charges, and other amounts:
- (a) all amounts remaining on deposit in any reserve fund established with respect to the issue of revenue bonds; and
  - (b) all other amounts and all agency bonds held by the commission and any trustee and pledged to the payment of the revenue bonds.
- (11)
- (a) The state treasurer or the commission may create any funds and accounts necessary to carry out the purposes of this section.
  - (b)
    - (i) The state treasurer shall administer and maintain those funds and accounts.
    - (ii) The state treasurer may invest all money held in those funds and accounts in accordance with Title 51, Chapter 7, State Money Management Act, and in accordance with the bond document or any other agreement entered into on behalf of the state as authorized by the bond document.
    - (iii) The commission may not approve the bond document or other agreement with respect to the investment and application of the money unless the state treasurer has affirmatively approved any investment provisions contained in the bond document or other agreement.
  - (c) All income from the money invested in a fund or account created under this Subsection (11) shall accrue to the benefit of the fund or account and shall be used for the purpose for which the fund or account was established.
- (12) The commission may authorize the issuance of refunding revenue bonds of the state in accordance with Title 11, Chapter 27, Utah Refunding Bond Act, for the purpose of refunding any revenue bonds and for the purposes of that act, the state shall be considered a "public body" and the commission its "governing body."
- (13)

- (a) Revenue bonds may not be issued under this chapter until an authorized official finds and certifies that all conditions precedent to the issuance of the revenue bond, including the requirements of Section 63B-1b-103, have been satisfied.
- (b) A recital on any revenue bond of a finding and certification conclusively establishes the completion and satisfaction of all conditions required in this section.
- (14) Revenue bonds, interest paid on revenue bonds, and any income from revenue bonds are not taxable within this state for any purpose, except for the corporate franchise tax.
- (15)
  - (a) Revenue bonds are legal investments for all state trust funds, insurance companies, banks, trust companies, and the State School Fund.
  - (b) Revenue bonds may also be used as collateral to secure legal obligations.
- (16) Immediately upon the issuance of each issue of revenue bonds, an authorized official shall make a verified return to the Division of Finance of:
  - (a) the aggregate principal amount of revenue bonds issued;
  - (b) the amount of proceeds of sale of revenue bonds received by the state;
  - (c) the amount paid to the authorizing agency or agencies for the agency bonds;
  - (d) the total amount of all fees and expenses relating to the issuance of the revenue bonds;
  - (e) the amount of sale proceeds of the revenue bonds used to pay fees and expenses; and
  - (f) the amount of sale proceeds of the revenue bonds deposited in the reserve fund established with respect to the issue of revenue bonds, if any.

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